

MINUTES
TENNESSEE BOARD OF OSTEOPATHIC EXAMINATION
NOVEMBER 9, 2005

A regular meeting of the Tennessee Board of Osteopathic Examination was held in the Cumberland Room located on the Ground Floor of the Cordell Hull State Office Building on November 9, 2005.

Members Present: Jill Robinson, DO; Donald H Polk, DO; Paul Smith, Jr, DO; Joyce Ann Brown, DO; and Janis Hinton, Citizen Member

Staff Present: Rosemarie Otto, Medical Board Director, Sheila Bush, Administrator, Robert Kraemer, Advisory Attorney, Jerry Kosten, Rules Coordinator, Marsha Arnold, Unit Manager, Lea Phelps, Disciplinary Coordinator, Denise Moran, Director of Investigations, Lori Doty, Attorney, Larry Arnold, Consultant for Board of Medical Examiners

Members Absent: Rafael Sanchez, DO

The Board convened at 9:15 am with Dr. Robinson presiding. Dr. Robinson determined that a quorum was present in order to conduct Board business.

Ratify Minutes of Previous Meeting

Dr. Smith made a motion to accept the minutes from the August 24, 2005 meeting. Ms. Hinton seconded the motion. The motion carried.

Disciplinary Report

Ms. Lea Phelps, Disciplinary Coordinator, informed the Board that there are 6 licensees currently being monitored.

Investigative Report

Ms. Denise Moran, Director of Investigations, informed the Board that there are 20 cases in Investigations. Ms. Moran reported that they have had a significant decrease in investigators and are working to hire investigators with clinical and/or investigatory experience. Ms. Moran requested and has received three new positions as part of the Governors' improvement budget.

Managers Report

Ms. Marsha Arnold, Unit Manager, gave the Director/Manager report to the Board.

Office of General Counsel Report

Mr. Robert Kraemer read his report to the Board and stated that there were eleven open disciplinary cases in the Office of General Counsel.

Financial Report

Ms. Rosemarie Otto provided the financial report and informed the Board that the deficit was decreasing.

Rulemaking Hearing

Mr. Jerry Kosten, Rules Coordinator, presented to the Board rules concerning a fee increase for the Council of Professional Certified Midwifery. A rulemaking hearing was held on February 28, 2005. Dr. Smith made motion to adopt the new rules and Dr. Brown seconded the motion. The motion carried with a roll call vote.

Mr. Kosten presented to the Board rules concerning prescription writing, osteopathic professional corporations and limited liability companies, requirements for X-Ray operators to conduct bone densitometry, a revision to X-Ray operators certification and course provider requirements, the use of titles and reconsiderations and stays for disciplinary actions. A rulemaking hearing was held on October 21, 2005. A letter from the American Society of Radiologic Technologists (ASRT) was received in response to the rulemaking hearing requesting changes to the new rule concerning bone densitometry. After review of the correspondence from ASRT, Dr. Polk made a motion to adopt the X-Ray rules as amended and Ms. Hinton seconded the motion. The motion carried with a roll call vote.

General discussion

Dr. Larry Arnold, Consultant for the Medical Board, presented to the Board a copy of a letter submitted by Ronald I. Weiner, DO, requesting the Board's permission to participate in the Trial to Assess Chelation Therapy Study (TACT). Dr. Polk made a motion to authorize Dr. Weiner to participate in the study. Dr. Smith seconded the motion. The Board also viewed a tape of the television series 60 minutes which presented a story on patient deaths in South Carolina related to the use of hydrogen peroxide therapy.

Agreed Orders

Robert Chatfield, DO- Dr. Chatfield was not present but was represented by attorney Dan Warlick. Laurie Doty represented the State. Ms. Doty handed out the Agreed Order. Dr. Chatfield is charged with violating T.C.A. 63-9-111 (b) (21). The Agreed Order states that Dr. Chatfield will be reprimanded and assessed costs. Dr. Polk made a motion to accept the agreed order and Dr. Smith seconded the motion. The motion carried.

Floyd Brown, DO- Dr. Brown was not present nor represented by legal counsel. Laurie Doty represented the State. Dr. Brown's license is on probation. Ms. Doty handed out the Agreed Order. Dr. Brown is charged with violating T.C.A. 63-9-111 (b) (1), (2), (4), (11), (12). The Agreed Order states that Dr. Brown's license will be suspended for one (1) year, and during the suspension period Dr. Brown will be required to complete both the Vanderbilt Comprehensive Assessment Program for Professionals (V-Cap) at Vanderbilt University Medical Center and the Center for Personalized Education for Physicians Program (C-PEP) in Aurora, CO. Dr. Brown's suspension will not be lifted unless and until Dr. Brown submits documentation of compliance with V-CAP and C-PEP and their recommendations that Dr. Brown is safe to practice medicine. Once Dr. Brown's suspension is lifted his license will be placed on probation for five (5) years. During the probationary period, Dr. Brown must have a practice monitor to review his medical practices, protocols and record documentation. The practice monitor shall submit quarterly reports to the Board. Dr. Brown must cease from using the Scan-It and is ordered to pay the cost of this action including all costs assessed against the Board by the Division's Bureau of Investigations. The cost must be paid in full within thirty (30) days of Dr. Brown's receipt of the Affidavit of Cost. Dr. Joyce Brown made a motion to accept the Agreed Order and Ms. Hinton seconded the motion. The motion carried.

Consent Order

Fred Foshee, DO- Dr. Foshee was not present nor represented by legal counsel. Laurie Doty represented the State. Ms. Doty handed out the Consent Order. Dr. Foshee is charged with violating T.C.A. 63-9-111 (a), (b), (11), (12), and (13). Dr. Smith made a motion to accept the Consent Order for purpose of discussion and Dr. Polk seconded the motion. The motion failed. The Order was not ratified by the Board due to "technical" issues. Ms. Doty told the Board she would correct the technical issues and return the order to the Board for consideration at its next meeting.

Review Files

Cody Davis, DO- Dr. Davis is applying for license by reciprocity as an Osteopathic Physician in the State of Tennessee. After review, Dr. Smith made a motion to approve Dr. Davis' file and Dr. Brown seconded the motion. The motion carried.

Robert Lutz, DO- Dr. Lutz submitted a reinstatement application for license as an Osteopathic Physician in the State of Tennessee. After review, the Board requested to have Dr. Lutz appear at the next scheduled meeting to be held on March 8, 2006.

Ratification of New Licenses, Reinstatements and Fail to Renew

Dr. Smith made a motion to ratify the new osteopathic physician licenses, midwives and x-ray operators, reinstatements and failed to renew licenses. Dr. Polk seconded the motion. The motion carried.

Ms. Hinton made a motion to adjourn at 12:00pm. Dr. Brown seconded the motion. The motion carried.

Donald Polk, DO, Secretary